

**United States Department of Labor
Employees' Compensation Appeals Board**

M.F., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
West Covina, CA Employer**

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**Docket No. 13-672
Issued: July 2, 2013**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On January 30, 2013 appellant filed a timely appeal of a December 5, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his occupational disease claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that his cervical radiculopathy is causally related to his federal employment.

FACTUAL HISTORY

On June 1, 2012 appellant, then a 56-year-old letter carrier, filed an occupational disease claim alleging that he developed radiculopathy due to factors of his federal employment. He first became aware of his condition on April 13, 2012 and first related the condition to his

¹ 5 U.S.C. § 8101 *et seq.*

employment on May 21, 2012. In a separate statement, appellant described his work duties as involving continuous standing, twisting, turning and reaching over the shoulder. He stated that he lifted trays of mail weighing between 10 and 50 pounds. Appellant also lifted parcels weighing up to 70 pounds and carried a satchel weighing up to 35 pounds for five to seven hours a day. He stated that there was continual pressure on his back, spine, shoulder wrists and neck. Appellant reported constant pain in the neck with numbness in the fingers.

Appellant underwent a cervical magnetic resonance imaging (MRI) scan on May 10, 2012 which demonstrated a C3-4 disc protrusion indenting the spinal cord as well as C4-5 and C5-6 disc protrusions.

In a letter dated June 14, 2012, OWCP requested additional factual and medical evidence from appellant and allowed 30 days for a response.

By decision dated September 4, 2012, OWCP denied appellant's claim finding that he had not submitted sufficient medical evidence to establish a cervical condition caused by his work activities.

Appellant requested reconsideration on September 17, 2012. On July 13, 2012 Dr. J. Pham, a physician specializing in physical medicine, diagnosed cervical radiculopathy. He indicated with a checkmark "yes" on the form that the condition was caused or aggravated by an employment activity and stated, "may have been caused by carrying mailbag for many years." Dr. Pham found that appellant could return to work on April 25, 2012.

By decision dated December 5, 2012, OWCP found that appellant had not submitted sufficient medical evidence to establish a causal relationship between his diagnosed cervical condition and his employment duties.

LEGAL PRECEDENT

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."² To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have the claimant.

The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.³

² 20 C.F.R. § 10.5(q).

³ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

ANALYSIS

The Board finds that appellant did not provide sufficient medical evidence to establish a causal relationship between his diagnosed cervical condition and his work duties as a letter carrier.

In a July 13, 2012 form report, Dr. Pham diagnosed cervical radiculopathy. He indicated with a checkmark “yes” that the condition was caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking “yes” to a medical form report question on whether the claimant’s condition was related to the history given is of diminished probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.⁴ Dr. Pham provided only limited explanation for his stated conclusion that appellant’s cervical radiculopathy may have been caused by carrying a mailbag for many years. To be considered rationalized medical opinion evidence, a physician’s opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and the claimant’s specific employment factors.⁵ While the statement is generally supportive of causal relationship, Dr. Pham did not express his opinion in terms of reasonable medical certainty as he stated that appellant’s condition may have been caused by carrying mailbag. Furthermore, he did not adequately address how such duties as carrying a mailbag for many years caused or contributed to appellant’s cervical condition or radiculopathy. The Board finds that appellant has not submitted rationalized medical opinion to establish that he developed cervical radiculopathy as a result of his federal employment.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not submitted sufficient medical opinion evidence to establish that he developed cervical radiculopathy due to his employment duties as alleged.

⁴ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

⁵ *S.D.*, 58 ECAB 713 (2007).

ORDER

IT IS HEREBY ORDERED THAT the December 5, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 2, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board